

LATHROP GAGE

Denise L. Mayfield
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Boulder, CO 80301
Fax: (720) 931-3001

November 15, 2002

VIA U.S. FIRST CLASS MAIL

Dr. John Dodds
Dodds & Associates
1707 N St.
Washington, DC 20036

RE: U.S. Serial No. 09/773,303
Title: FIELD BEAN CULTIVAR NAMED ENOLA
Our Ref: 396168

Dear Dr. Dodds:

Enclosed are true and correct copies of the papers filed with the USPTO regarding application 09/773,303, Control 90/005,892 filed on November 15, 2002.

I hereby certify pursuant to provisions under 37 CFR 1.248(a)(4) these documents are being transmitted to you by U.S. First Class Mail. Please sign below to acknowledge receipt of these items and transmit the signed document to us.

Sincerely,


Denise L. Mayfield

Signed:

Date

John Dodds

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PTO/SB/21 (08-00)

Approved for use through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Serial Control Number	09/773,303 - 90/005,892
	Filing Dates	01/31/2001 - 12/20/2000
	First Named Inventor	Larry M. Proctor
	Group Art Unit	1638
	Examiner Name	Amy Nelson
Total Number of Pages in This Submission		Attorney Docket Number 396168

ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input checked="" type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Cited References Certificate of Mailing Return Postcard
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Denise L. Mayfield, Reg. No. 33,732 Lathrop & Gage L.C.
Signature	<i>Denise L. Mayfield</i>
Date	November 14, 2002

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

<h2 style="margin: 0;">FEE TRANSMITTAL</h2> <h3 style="margin: 0;">for FY 2002</h3> <p style="margin: 0; font-size: small;">Patent fees are subject to annual revision.</p>		<p style="margin: 0; font-size: x-small;">Complete if Known</p>	
<input type="checkbox"/> Applicant claims small entity status.		Application Number	09/773,303 - 90/005,892
		Filing Date	1/31/200 - 12/20/2000
		First Named Inventor	Larry Proctor
		Examiner Name	Amy J. Nelson
		Group / Art Unit	1638
TOTAL AMOUNT OF PAYMENT		(\$)	180
		Attorney Docket No.	396168

<p style="margin: 0; font-size: x-small;">METHOD OF PAYMENT (check one)</p>					<p style="margin: 0; font-size: x-small;">FEE CALCULATION (continued)</p>																																																																																																																																																																																	
<p><input checked="" type="checkbox"/> Check <input type="checkbox"/> Credit card <input type="checkbox"/> Money <input type="checkbox"/> Other</p> <p><input type="checkbox"/> Deposit Account</p> <p>Deposit Account Number: 12-0600</p> <p>Deposit Account Name: Lathrop & Gage L.C.</p> <p>The Commissioner is authorized to: (check all that apply)</p> <p><input type="checkbox"/> Charge fees indicated below <input checked="" type="checkbox"/> Credit any overpayments</p> <p><input checked="" type="checkbox"/> Charge Any Additional Fee Required during pendency of this application</p> <p><input type="checkbox"/> Charge Fee(s) indicated below, except for the filing fee to the above-identified deposit account</p>					<p style="margin: 0; font-size: x-small;">3. ADDITIONAL FEES</p> <table border="1" style="width: 100%; border-collapse: collapse; font-size: x-small;"> <thead> <tr> <th>Fee Code</th> <th>Large Entity Fee (\$)</th> <th>Small Entity Fee (\$)</th> <th>Fee Description</th> <th>Fee Paid</th> </tr> </thead> <tbody> <tr><td>1051</td><td>130</td><td>2051</td><td>65</td><td>Surcharge - late filing fee or oath</td><td></td></tr> <tr><td>1052</td><td>50</td><td>2052</td><td>25</td><td>Surcharge - late provisional filing fee or cover sheet.</td><td></td></tr> <tr><td>1053</td><td>130</td><td>1053</td><td>130</td><td>Non-English specification</td><td></td></tr> <tr><td>1812</td><td>2,520</td><td>1812</td><td>2,520</td><td>For filing a request for reexamination</td><td></td></tr> <tr><td>1804</td><td>920*</td><td>1804</td><td>920*</td><td>Requesting publication of SIR prior to Examiner action</td><td></td></tr> <tr><td>1805</td><td>1,840*</td><td>1805</td><td>1,840*</td><td>Requesting publication of SIR after Examiner action</td><td></td></tr> <tr><td>1251</td><td>110</td><td>2251</td><td>55</td><td>Extension for reply within first month</td><td></td></tr> <tr><td>1252</td><td>400</td><td>2252</td><td>200</td><td>Extension for reply within second month</td><td></td></tr> <tr><td>1253</td><td>920</td><td>2253</td><td>460</td><td>Extension for reply within third month</td><td></td></tr> <tr><td>1254</td><td>1,440</td><td>2254</td><td>720</td><td>Extension for reply within fourth month</td><td></td></tr> <tr><td>1255</td><td>1,960</td><td>2255</td><td>980</td><td>Extension for reply within fifth month</td><td></td></tr> <tr><td>1401</td><td>320</td><td>2401</td><td>160</td><td>Notice of Appeal</td><td></td></tr> <tr><td>1402</td><td>320</td><td>2402</td><td>160</td><td>Filing a brief in support of an appeal</td><td></td></tr> <tr><td>1403</td><td>280</td><td>2403</td><td>140</td><td>Request for oral hearing</td><td></td></tr> <tr><td>1451</td><td>1,510</td><td>1451</td><td>1,510</td><td>Petition to institute a public use proceeding</td><td></td></tr> <tr><td>1452</td><td>110</td><td>2452</td><td>55</td><td>Petition to revive - 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<p style="margin: 0; font-size: x-small;">1. BASIC FILING FEE</p> <table border="1" style="width: 100%; border-collapse: collapse; font-size: x-small;"> <thead> <tr> <th>Large Fee Code</th> <th>Entity Fee (\$)</th> <th>Small Fee Code</th> <th>Entity Fee (\$)</th> <th>Fee Description</th> <th>Fee Paid</th> </tr> </thead> <tbody> <tr><td>1001</td><td>740</td><td>2001</td><td>370</td><td>Utility filing fee</td><td></td></tr> <tr><td>1006</td><td>330</td><td>2006</td><td>165</td><td>Design filing fee</td><td></td></tr> <tr><td>1003</td><td>510</td><td>2003</td><td>255</td><td>Plant filing fee</td><td></td></tr> <tr><td>1004</td><td>740</td><td>2004</td><td>370</td><td>Reissue filing fee</td><td></td></tr> <tr><td>1005</td><td>160</td><td>2005</td><td>80</td><td>Provisional filing fee</td><td></td></tr> </tbody> </table> <p style="text-align: right; margin-top: 10px;">SUBTOTAL (1) (\$ 0)</p>					Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description	Fee Paid	1001	740	2001	370	Utility filing fee		1006	330	2006	165	Design filing fee		1003	510	2003	255	Plant filing fee		1004	740	2004	370	Reissue filing fee		1005	160	2005	80	Provisional filing fee		<p style="margin: 0; font-size: x-small;">2. EXTRA CLAIM FEES</p> <table border="1" style="width: 100%; border-collapse: collapse; font-size: x-small;"> <tr> <td>Total Claims</td> <td>-</td> <td>=</td> <td>0</td> <td>X</td> <td>Fee from below</td> <td>=</td> <td>0</td> <td>Fee Paid</td> </tr> <tr> <td>Independent Claims</td> <td>-</td> <td>=</td> <td>0</td> <td>X</td> <td></td> <td>=</td> <td>0</td> <td></td> </tr> <tr> <td>Multiple Dependent</td> <td></td> <td></td> <td></td> <td>X</td> <td></td> <td>=</td> <td>0</td> <td></td> </tr> </table> <table border="1" style="width: 100%; border-collapse: collapse; font-size: x-small;"> <thead> <tr> <th>Large Fee Code</th> <th>Entity Fee (\$)</th> <th>Small Fee Code</th> <th>Entity Fee (\$)</th> <th>Fee Description</th> </tr> </thead> <tbody> <tr><td>1202</td><td>18</td><td>2202</td><td>9</td><td>Claims in excess of 20</td></tr> <tr><td>1201</td><td>84</td><td>2201</td><td>42</td><td>Independent claims in excess of 3</td></tr> <tr><td>1203</td><td>280</td><td>2203</td><td>140</td><td>Multiple dependent claim, if not paid</td></tr> <tr><td>1204</td><td>84</td><td>2204</td><td>42</td><td>** Reissue independent claims over original patent</td></tr> <tr><td>1205</td><td>18</td><td>2205</td><td>9</td><td>** Reissue claims in excess of 20 and over original patent</td></tr> </tbody> </table> <p style="text-align: right; margin-top: 10px;">SUBTOTAL (2) (\$)</p>					Total Claims	-	=	0	X	Fee from below	=	0	Fee Paid	Independent Claims	-	=	0	X		=	0		Multiple Dependent				X		=	0		Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description	1202	18	2202	9	Claims in excess of 20	1201	84	2201	42	Independent claims in excess of 3	1203	280	2203	140	Multiple dependent claim, if not paid	1204	84	2204	42	** Reissue independent claims over original patent	1205	18	2205	9	** Reissue claims in excess of 20 and over original patent																																																																																
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<p style="margin: 0; font-size: x-small;">SUBMITTED BY</p>				<p style="margin: 0; font-size: x-small;">Complete (if applicable)</p>	
Name (Print/Type)	Denise L. Mayfield	Registration No. Attorney/Agent	33,732	Telephone	(720) 931-3000
Signature				Date	NOV 14, 2002

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

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IN THE UNITED STATES PATENT OFFICE

Applicant(s): Proctor, Larry

Examiner: Nelson, Amy J.

Reexamination of U.S. Patent No.: 5,894,079

Reissue Application No.: 09/773,303

Control No.: 90/005,892

Filed: 01/31/2001

Filed: 12/20/2000

For: **FIELD BEAN CULTIVAR NAMED ENOLA**

Assistant Commissioner for Patents
Washington, D.C. 20231

INFORMATION DISCLOSURE STATEMENT
FILED UNDER 37 C.F.R. § 1.97(c)

The present Information Disclosure Statement is submitted on behalf of Pod-Ners, Assignee of Patent No. 5,894,079, titled, "FIELD BEAN CULTIVAR NAMED ENOLA". It is respectively requested that these documents be made of record and entered as art considered in the Reissue Application Serial No. 09/773, 303, Control No. 90/005,892.

Copies of documents that were provided during an infringement action under the Pod-Ners Plant Variety Protection Act Certificate are included herewith. This Action was pending in the United States District Court for the District of Colorado (Civil Action No. 01-WY-2310 AJ, documents dated October 2-October 9, 2002).

Certification Under 37 CFR §1.97(c)

11/18/2002 RHARMON 00000003 00733303
01 FC:1806 180.00 50
The present Information Disclosure Statement is to be considered and entered into the Official Record of the Reexamination Application of U.S. Serial No. 09/773,303 of the United States Patent Office under the provisions provided under 37 CFR §1.97(c). I hereby certify pursuant to the provisions of 37 CFR §1.97(c) that the present Information Disclosure Statement, is being filed before the mailing date of any final Office Action under §1.113, before the issuance of a notice of allowance under §1.311, and before the issuance of an action that otherwise closes prosecution in the application, and that the filing of the present Information Disclosure Statement is accompanied by the fee set forth in CFR §1.17(p), \$180.00 (37 CFR §1.97(c)(2)).

A copy of reference #28-Exportacion De Variedad De Frijol Tio Azufrado A La USA, 1990) is included with the papers of the present Information Disclosure Statement. This document was produced during the infringement litigation of the Pod-Ners Plant Variety

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document was produced during the infringement litigation of the Pod-Ners Plant Variety Protection Act Certificate. The document purports the exportation of beans from seven (7) different exporters in Mexico to the United States. The dates indicated at the middle column of the document, purport to identify exportation dates of March, 1990, February, 1992, May 1997, February 1998, March, 1999, December 1996 and December 1999. We are not aware of the source of this document.

Rule 1.248 - Service of Papers; Manner of Service; Proof of Service in Cases Other Than Interferences

I, Denise L. Mayfield certify that a true and correct copy of the presently filed papers have been served to Dr. John Dodds, Attorney of Record for CIAT by transmission by first class mail on November 15, 2002 (37 CFR §1.248(a)(4)). Said proof of service is affixed to the papers filed herewith (37 CFR §1.248(b)).

I enclose the above documents for your review and consideration. Please direct correspondence to this case to:

Denise L. Mayfield
Lathrop & Gage, L.C.
4845 Pearl East Circle, Suite 300
Boulder, CO 80301

Respectfully submitted,

November 14, 2002
Date

Denise L. Mayfield
Denise L. Mayfield, Reg. No. 33,732

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